

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Wisconsin

1902(f) and 1917
of the Act
(P.L. 100-360,
P.L. 100-485)
and P.L. 101-239)

The agency provides for a period of ineligibility for nursing facility services and for a level of care in a medical institution equivalent to that of nursing facility services and for services under section 1915(c) in the case of an institutionalized individual who, or whose spouse, at any time during or after the 30-month period immediately before the date the individual becomes an institutionalized individual (if the individual is entitled to Medical Assistance under the State Plan on such date), or, if the individual is not so entitled, the date the individual applies for such assistance while an institutionalized individual, disposed of resources for less than fair market value.

- A. The period of ineligibility begins with the month in which such resources were transferred and the number of months in such period is equal to the lesser of:
 - 1. 30 months; or
 - 2. The total uncompensated value of the resources transferred divided by the average cost, to a private patient at the time of application, of nursing facility services in the state.
- B. An individual is not found ineligible under A. to the extent that -
 - 1. The resources transferred were a home and title to the home was transferred to:
 - a. The individual's spouse;
 - b. A child of the individual who is:
 - 1) under age 21; or
 - 2) Blind; or
 - 3) Permanently and totally disabled.

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- c. The individual's sibling who has an equity interest in the home and who was residing in the individual's home for a period of at least one year immediately before the date the individual became an institutionalized individual; or
- d. The individual's son or daughter other than a child described in par. b who was residing in the individual's home for a period of at least two years immediately before the date the individual became an institutionalized individual and who provided care to his or her parent which enabled the parent to reside at home rather than in such an institution or facility.

The institutionalized individual must provide a notarized statement to the income maintenance agency affirming that he or she was able to remain in the home because of the care provided by the child. The statement must be signed by his or her physician or another person who has personal knowledge of the institutionalized individual's living circumstances. A notarized statement from the individual's child does not satisfy these requirements.

- C. The resources were other than homestead property and the resources were transferred:
 - 1. To or from the individual's spouse or to another for the sole benefit of the individual's spouse;
 - 2. To the individual's child who is:
 - a. Blind; or
 - b. Permanently and totally disabled.

- D. An individual who has divested may be found eligible if a satisfactory showing is made to the state that:
1. The individual intended to dispose of the resources at fair market value or other valuable consideration;
 2. The resources were transferred exclusively for a purpose other than to qualify for Medical Assistance. For example, the individual furnishes convincing evidence that shows that at the time of the divestment he or she had already provided for future maintenance needs and medical care;
 3. The ownership of the divested property is returned to the person who originally disposed of it;
 4. Transfer of the resource occurred as the result of the division of property as part of a divorce or separation action, loss of property due to foreclosure or repossession of property due to failure to meet payments; or
 5. An institutionalized spouse who (or whose spouse) transferred resources for less than fair market value shall not be found ineligible for nursing facility services, for a level of care in a medical institution equivalent to that of nursing facility services, or for home and community-based services where the state determines that denial of eligibility would work an undue hardship under the provision of section 1917(c)(2)(D) of the Social Security Act.

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